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OFFICE OF PETITIONS

In re Application of
Donald E. Weder
Application No. 10/090,567
Filed: February 28, 2002
Attorney Docket No. 8403.522

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 10, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 10, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition an authorization to charge \$1,330 for the petition to revive fee, \$950 for a three (3) months extension of time, and an amendment.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$950 extension of time submitted with the petition on October 20, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 3600, for consideration of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
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for Patent Examination Policy